

1
2
3 UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
5 OAKLAND DIVISION
6

7 JOHN R. BOTTI III,
8 Plaintiff,
9
10 vs.
11 TRANS UNION LLC,
12 Defendant.

Case No: C 11-04519 SBA
DISMISSAL ORDER

13
14 On September 12, 2011, Plaintiff John Botti, III ("Plaintiff"), proceeding pro se,
15 brought the instant action against Defendant Trans Union LLC ("Defendant") alleging a
16 federal claim under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681, and a state
17 law claim under the California Consumer Credit Reporting Agencies Act ("CCRAA"), Cal.
18 Civ. Code § 1785.1 et seq. Dkt. 1. On May 4, 2012, the Court granted in part and denied
19 in part Defendant's motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil
20 Procedure. Dkt. 34.

21 In that Order, Defendant's motion to dismiss was granted as to Plaintiff's FCRA
22 claim, which was dismissed with leave to amend. Dkt. 34. Defendant's motion to dismiss
23 as to Plaintiff's CCRAA claim was denied without prejudice. Id. Plaintiff was given
24 twenty-one (21) days from the date the Order was filed to file a first amended complaint.
25 Id. The Order expressly warned Plaintiff that the failure to file a first amended complaint
26 by the deadline would result in the dismissal of his FCRA claim with prejudice and the
27 dismissal of his state law claim without prejudice to the filing of this claim in a state court
28 action. Id.


1 To date, Plaintiff has not filed a first amended complaint. Accordingly, Plaintiff's
2 FCRA claim is DISMISSED with prejudice. Having now dismissed the federal claim
3 alleged against Defendant, the Court declines to assert supplemental jurisdiction over
4 Plaintiff's remaining state law claim. See 28 U.S.C. § 1367(c)(3) (a district court may
5 decline to exercise supplemental jurisdiction if it has dismissed all claims over which it has
6 original jurisdiction); see also Sanford v. MemberWorks, Inc., 625 F.3d 550, 561 (9th Cir.
7 2010) (" '[I]n the usual case in which all federal-law claims are eliminated before trial, the
8 balance of factors to be considered under the pendent jurisdiction doctrine – judicial
9 economy, convenience, fairness, and comity – will point toward declining to exercise
10 jurisdiction over the remaining state-law claims.' "); Harrell v. 20th Century Ins. Co., 934
11 F.2d 203, 205 (9th Cir. 1991) ("it is generally preferable for a district court to remand
12 remaining pendant claims to state court. . . .").

13 For the reasons stated above, IT IS HEREBY ORDERED THAT:

- 14 1. Plaintiff's FCRA claim is DISMISSED with prejudice.
- 15 2. The Court declines to assert supplemental jurisdiction over Plaintiff's
16 CCRAA claim, which is dismissed without prejudice to the refile of this claim in a state
17 court action.
- 18 3. The Clerk shall close the file and terminate all pending matters.

19 IT IS SO ORDERED.

20 Dated: 7/2/12

21 
22 SAUNDRA BROWN ARMSTRONG
23 United States District Judge
24
25
26
27
28

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 BOTTI et al,

5
6 Plaintiff,

7 v.

8 TRANS UNION LLC et al,

9 Defendant.
10 _____/

11 Case Number: CV11-04519 SBA

12 **CERTIFICATE OF SERVICE**
13

14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
15 Court, Northern District of California.

16 That on July 2, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
17 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
18 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
19 located in the Clerk's office.

20 John R Botti
21 1163 Capri Drive
22 Campbell, CA 95008-6003

23 Dated: July 2, 2012

24 Richard W. Wieking, Clerk

25 By: Lisa Clark, Deputy Clerk
26
27
28